1949. **File No.** O. Saranjam 1/49

Legal Deptt.

A **BRANCH**

Subject:— Opinions under the Saranjam Estates Act

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O. Saranjam 1/49

File No.

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C O N T E N T S.

Legal Department File No. C. Saranjams/49.

Sr. No.	R.I. / O. No.	Subject	pages.
1)	3484 30-5-49	The Saranjam Estates Act, claim of Sardar of Wai. Whether the Sardar can hence any right to claim similar treatment given to Satara Chiefs.	1
2)	C- 551 6-6-49	Whether the grant of certain lands in Satara, Dist. are jadial or Kamim Inams.	3 - 4
3)	8096 18-7-49	Saranjam Rule 5 - Agra Granting of loan against the Saranjam Estate as Security - whether there would be any legal objection to Govt.	5 -
4)	9816 6-8-49	Rule 5 - Whether the Saranjam lands can be sold in satisfaction of loan due to Govt. and the alienation would also be binding on the successor.	7 -9
5)	10483 6-9-49	Whether a certificate under Sec. 6 of Pensions Act 1871 is necessary before a Saranjamdar files a suit.	11 -
6)	11605 8-10-49	Rule 10 - Resumption of Saranjami for payment of the Saranjamdar's debts - whether Govt. can resume the.	13 -17.

C.G.R. 4-6-

C. 5

Claim of Sardar of Wai.
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R.L.A's opinion No. 11875, dated 14-12-1948.

Office of R.L.A.

The information supplied by the Commissioner, Central Division in paragraphs 2 and 3 of his letter dated 7-3-1949 confirms the view taken by the Remembrancer of Legal Affairs in his last opinion No. 11875, dated the 15th December 1948.

The contention raised by the Sardar that after the lapse of paramountcy he should be given these rithts which would b given to the Satara Chiefs is misconceived. Those Satara Chiefs were rulers of Indian States whereas the Sardar is not. Consequently the Sardar can have no right to claim similar treatment.

Sd/- (P.M.L.)
R.L.A.

U.R.to P.& s.D., No. 3454 , dated the 30th March 1949.

C.G.R. 5-6-

C 5.

Office of the R.L.A.

The main question for the R.L.A's consideration is whether the grant of J. Nos. 78, 91, 251 and 280 of Shere, Taluka Karad, District Satara, are jadid or Kadim inams. Whatever may be the nature of the original grant of these lands, it appears clear from the Government Resolution, P.D., No. 4190 dated 23rd July 1874 at page 133 of P.& S. Department file No. 6723-34 A Branch, that the village Shere, which had originally formed part of the saranjam conferred on the ancest of the Mutalik family, was resumed in 1834 on the death of the then h l r w i hout male issue, and a portion of the saranjam worth Rs. 4,000 per annum was continued to the dmp adopted son, and during this interim period the lands in question belonging to the Maharleshwarkar family were entered as kadim, the assessment thereon being kept in deposit. See Commissioner's letter para 1 at page 8 ante. A Saranjams before the introduction of the British rule were held for life and were neither transferable nor hereditary and in fact that they were considered as held at the pleasure of the sovereign. See Secretary of State V. Girjabai, 29 B.L.R. 1503. Consequently the order of attachment of saranjam made in 1834 put an end to the saranjam, and with it the grant of the present lands, even assuming that grant was considered jadid. In fact the grant of these lands was not considered as jadid but was treated as kadim. The subsequent regrant of the saranjam as merely of revenue of the village and not of the soil, which grant would, therefore, not include the lands in question. Consequently the Mutalik family could not in any event claim that the grant of these lands was jadid. These lands were settled under the summary settlement and no objection was taken by the saranjamdar. They have been entered as personal inam in the Land Alienation Register, which stands unchallenged all along.

In these circumstances there would be no legal

egal objection to treating these lands as Indian inam, and Government can claim them by escheat.

Sd/- (P.L.E.)

Remembrancer of Legal Affiars.

U.O.R. toR.D. No. G/351, dated 4 6/5/40

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Granting ofloan against the Saranjam Estate as security.

Saranjam Rule 5.

Office of the R.L.A.

Rule 5 of the Saranjam Rules gives Government absolute discretion, while regranting a saranjam to the successor, to impose any debt or charge. Consequently there would be no legal objection to Government granting a loan of Rs. 25000 to the Chief Saranjamdar R.T. Mantri on the security of his saranjam estate, for even if the loan is not fully repaid during his lifetime, it would be open to Government ef to impose a charge in respect of the balance of the debt on the suranjam estate while regranting it to his successor under rule 5.

Sd/- (P.M.L.)

Remembrancer of Legal Affairs.

M.R. to R.D. No. 8096 dated the 18th July 1949.

C.G.R. 6-6-

C 5

Office of the R.L.A.

Question whether Saranjam lands can be sold in satisfaction of Govt. loan and the alienation would be binding on the successor.

Saranjam Rule 5.

Under Government Letter, Political and Services Department No. 9703/34-A dated 26th November 1946 a loan of Rs. 5,000 was sanctioned to Sardar Heblikar on the security of certain saranjam lands in his possession in order to enable him to pay maintenance allowance sanctioned by Government to his wife and children out of the saranjam revenues. The loan was to be recovered from the Sardar in five annual instalments of Rs, 1,000 commencing from the year 1947-1948. The first instalment of the rent fell due on 31-3-1948, and the second on 31-3-1949. The Sardar has not been able to pay these instalments. The Collector has recommende that the loan should be recovered by sale of some of the saranjam lands which have been given as security for the loan. While endorsing the proposal of the Collector, the Commissioner observes :-

"Though ordinarily a saranjamdar is not competent to alienate the saranjam lands beyond his life-time, there appears to be no direct prohibition by the legislature of alienation of saranjam lands. It has been pointed out (p.43 of the Law of Saranjams and Inams by Phadnis) that alienations which are justifiable from a necessity or as a bona fide act of benefiting the estate are binding on the estate in the hands of a successor. The sale of the saranjam lands can be said to be a necessity meant to discharge the obligatory liability of the Sardar".

The R.L.A. is requested to advise whether the the saranjam lands can be sold in satisfaction of the loan due to Government, and the alienatio would also be bindihg on the successor.

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2. In Sakharam V. Trimbak (23 Bom. L.R.321 it was held that the saranjam rules which have been issued by Government are now determinative of the rights of the sarajnamdars con all matters with which they deal. There is no provisionin in these rules enabling Government to sell the saranjam lands in satisfaction of Government loan so as to make it binding on the successor sarajamdar. It is true that in Daulatrao Malojirao v Porvince of Bombay (49 Bom. L.R. p. 270) it was held that the saranjam rules cannot excedd the general power or prevent Government from making a decision or determinati or referential to ap articular saranjam without altering the rules with regard to all of them. But this power is referable to the provision in the Bombay Act VIII of 1863, which provide that lands granted or held as saranjam or on mere political tenure shall be resumable or continuable in such manner and on such terms as Government on political considerations may from time to time see fit to determine. The power in excess of that provided for in the Saranjam Rules can, therefore, be exercised by Government in respect of Saranjams only on political considerations determined as fit. The question of the recovery of the loan advanced by Government to the Saranjamdar in the present case involves no political considerations. It would not, therefore, be competent for Government to resort to any extra-ordinary power provided for in the Bombay Act VIII of 1863 for the purpose of recovering the loan granted to the saranjamdar. It is true that in Madhavrao v. Imam Bapu (28 Bom. L.R.433), it was held that the alenationa which are justifiable from necessity or as a bona fide act of managemnt benefiting the estate are binding on the estate in the hands of a successor. But the alienations contemplated are voluntary, i.e., those made by the Saranjamdar himself. The sale of the saranjam lands for the purpose of recovering Government loan involves no such voluntary sale. Consequently, Madhavrao v. Iman Bapu will have no application.

3. Under rule 5 of the Saranjam Rules every saranjam shall be held as a life estate. It would, therefore,

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It would, therefore, be possible for Government to sell the life interest of the sarajamdar in the lands on the security of which the loan was advanced by Government. But such sale would not be binding on his successor. If the sale of the saranjamdar's life interest in these lands is not sufficient to satisfy the Government loan, Government may consider the question of taking over the management of the estate under the Bombay Court of Wards Act, as the saranjamdar appears to be in an impecunious position.

Sd/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R.to P.& S.D.No. 9216 dated the 16th August 1940.

C.L.R 6.6

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Opinion of the H.L.A.

Question whether a certificate under sec. 6 of Pensions Act 1871 is necessary before a Saranjamdar files a suit.

The view at "A" on page 285 ante, taken by the Political & Services Department is correct. There is no statutory provision prohibiting a Saranjamdar from filing any suit in respect of his Saranjam save with the permission of Government. Consequently, ~~xxx~~ there would be no legal objection to informing Mr. M.J.Dixit that it is not necessary for Government to gran formal permission to file a suit in this matter; but while so informing him it should be made clear that this would not dispense with a certificate under section 6 of the Pensions Act, 1871, provided such certificate is considered necessary by the Court.

Sd/- (P.H.L.)

Remembrancer of Legal Affairs.

U.R. to p.& S.D.No. 10483 dated 16th Septemr 1949.

H.L.A. 6.6.

C.S.

Resumption of Saranjam for payment of the Saranjmdar's debts Saranjam Rule 10.

It appears that by G.R., P.& S.D. No.3945 dated 17-5-1920, the Saranjam at serial no.83 of the Saranjam list was resumed and regranted free of all encumbrances to Mir Sharfoddin Mir Ajmoddin Kavijang with effect from 27th April 1918 on his father's death. The Saranjam consists of three villages of Khandala, Deotakli and Gumfa in Ahmednager District and three villages of Mangi, Chikalthan and Umrad in the Sholapur District. The Saranjamdar's income of three villages in the Sholapur District was attached by the the Civil Court, Ahmednager, in a special drakhast No. 54 of 1946 for a debt of the Central Bank of Ahmednagar. The Saranjamdar in July 1947 applied to the Collector of Sholapur that the attachment may be removed and the income paid to him but his request was refused, and he was asked to satisfy the decretal amount within six months. The Saranjamdar appears to be still in arrears of Rs. 8,240, out of the decretal amount of Rs. 12,210. The Commissioner, C.D. , states that as the Saranjam was alienated by attachment in execution of a civil court's decree for payment of debt, the Saranjam in respect of Mangi, Umrad and Chikhalthan may be resumed during the life time of the holder under Rule 10 of the Saranjam Rules. The P.& S.D. is of theopinion that, if the Saranjamdar does not pa his debt, the Saranjam is likely to pass into the hands of a body other than the Saranjamdar and, therefore, the same may be resumed by Government during the life time of the Saranjamdar and the Collector asked to pay the

income of these villages in satisfaction of the decretal amount and after complete satisfaction, the three villages may be regranted to the Saranjamdar. The R.L.A. is requested to advise whether the view taken by the P.&.S.D. is correct.

Rule 10 of the Saranjam Rules provides that, whenever it appears that the Saranjam or its revenues have passed by attachment or any other process of the civil court into the hands of a person other than the Saranjamdar, Government will ordinarily direct the Saranjam to be resumed and pass such orders as to its regrant or other disposal as may seem to them fitting. The use of the words "have passed" shows that no order of resumption can be passed by Government until the property has actually passed by attachment or other civil process. In the present case the order of attachment issued by the civil court is under Order 21, Rule 52 of the Civil Procedure Code. That provision provides that where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer requesting that such property or any interest or dividend becoming payable thereon may be held subject to the further orders of the court from which the notice is issued. This rule applies only to attachment of property actually in the hands of the court or the officer and not of property expected to reach in the hands of such court of officer (see 49 Bombay 638). The effect of the order of attachment issued in the present case under Order 21, rule 52 of the Civil Procedure Code is a direction from the civil court to the revenue officer to hold the revenues of the Saranjam, recovered and in the hands of the revenue officer, as attached. Apparently by this order the Saranjam property, as distinguished from the

as distinguished from the revenues recovered would not pass into the hands of a person other than the Saranjamdar. The Saranjam property still remains the property of the Saranjamdar and only the revenues which have been collected and lying in the hands of the revenue officer would be affected. Consequently, Rule 10 of the Saranjam Rules will have no application.

Sd/- (P.H.L.).
Remembrancer of Legal Affairs.

U.R. to Political & Services Department No. 11605
Dated the 18th October 1949.

C.G.R. 16-6

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